

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of J.S.N., Minor.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ADRIAN NORWOOD,

Respondent-Appellant,

and

CHARRISE HALL,

Respondent.

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UNPUBLISHED

January 17, 2003

No. 241301

Ingham Circuit Court

Family Division

LC No. 00-044500-NA

Before: Owens, P.J., and Murphy and Cavanagh, JJ.

MEMORANDUM.

Respondent claims an appeal from the trial court's order terminating his parental rights to his child pursuant to MCL 712A.19b(3)(a)(ii), (c)(i) and (ii), (g), (h), and (j).<sup>1</sup> We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

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<sup>1</sup> The trial court's order also terminated the parental rights of respondent Charrise Hall, the mother of J.S.N. Hall appealed the order (Docket No. 241403). In an order entered on July 1, 2002, this Court dismissed the appeal as untimely.

We hold the trial court erred in finding that petitioner established by clear and convincing evidence that termination of respondent's parental rights was proper under MCL 712A.19b(3)(h) (imprisonment). The record fails to indicate that respondent was ever provided with notice regarding this ground and the petition was never amended to allege it.

However, the trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds of desertion, MCL 712A.19b(3)(a)(ii), that the conditions that led to adjudication and other conditions continued to exist and were not likely to be rectified within a reasonable time, MCL 712A.19b(3)(c)(i) and (ii)<sup>2</sup>, that respondent failed to provide proper care or custody for the child, MCL 712A.19b(3)(g), and that the child would likely be harmed if placed in respondent's custody, MCL 712A.19b(3)(j). The evidence did not show that termination of respondent's parental rights was clearly not in the child's best interests. See MCL 712A.19b(5); *Trejo, supra*.

Affirmed.

/s/ Donald S. Owens  
/s/ William B. Murphy  
/s/ Mark J. Cavanagh

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<sup>2</sup> MCL 712A.19b(3)(c)(ii) was never pled. However, respondent challenged only the trial court's finding that termination was warranted pursuant to MCL 712A.19b(3)(h).